



PLANNING COMMISSION STAFF REPORT OCTOBER 11, 2012

- Project:** TRANSIT ORIENTED DEVELOPMENT (TOD) OVERLAY DISTRICT (PLN2013-00018)
- Proposal:** To consider a Zoning Text Amendment to the Fremont Municipal Code Title VIII (Planning and Zoning), Chapter 2 (Zoning) to create a new Transit Oriented Development (TOD) Overlay zoning district and apply the TOD Overlay District to specified Urban Residential, Commercial, and Industrially designated properties within ½ mile of a transit station; and to consider select amendments to the Fremont Municipal Code Title VIII (Planning and Zoning), Chapter 2 (Zoning), Article 2, Definitions, and Article 20 (Parking, Loading Areas, and Regulations Pertaining to Vehicle Storage Areas in Various Zoning Districts).
- Recommendation:** Recommend adoption of the Zoning Text Amendment to the City Council based on findings
- Location:** Within general ½ mile radius of transit station areas in Centerville, City Center, Irvington and Warm Springs /South Fremont.
- People:** City of Fremont, Applicant
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- General Plan:** Commercial, Industrial, Urban Residential Land Use Designations
- Environmental Review:** The proposed project would implement the recently adopted General Plan for which an Environmental Impact Report (EIR) SCH#2010082060 was previously certified.

EXECUTIVE SUMMARY

The project involves a City-initiated Zoning Text Amendment to adopt a new ordinance entitled the Transit Oriented Development (TOD) Overlay Zoning District. The ordinance also includes associated Zoning Text Amendments to Article 2 (Definitions) and Article 20 (Parking, Loading Areas, and Regulations Pertaining to Vehicle Storage Areas in Various Zoning Districts), of the Zoning Code. The TOD District is considered an “overlay” zoning district which encompasses one or more underlying zoning districts with either modifications or additions to some requirements, standards or incentives than those required by the underlying zone. The purpose of the TOD Overlay District is to create a compact, high intensity mix of residential, office, retail, service and public uses that promote areas of the City that have a high potential for pedestrian activity near existing and future transit stations. The TOD Overlay District generally offers additional development potential, reduced parking standards, and minimum development requirements for select properties within ½ mile radius of the Centerville ACE/Amtrak Train station and the Fremont BART Station and the future stations located in Irvington and Warm Springs/South Fremont. The other Zoning Text Amendments provide related amendments for

consistency, definitions related to net density and provide for required bicycle parking on a citywide basis. Staff recommends that the Planning Commission recommend to the City Council adoption of the Transit Oriented Development Overlay District ordinance and associated amendments to the Zoning Ordinance (Exhibit “A” and “B”). Staff also recommends that specified properties identified in Exhibit “C” be rezoned with the TOD Overlay.

BACKGROUND AND PREVIOUS ACTIONS

The recent adoption of the General Plan has brought a new vision to Fremont of a strategically urban future by supporting a broad range of sustainability measures related to transportation and land use. Specifically, the provisions in the Land Use and Mobility Elements of the General Plan recommend facilitating transit oriented development to assist the City in achieving its vision of growing strategically urban and investing in existing infrastructure. The City received grant funding from the Department of Energy for sustainability actions related to updating the Zoning Code. The proposed Transit Oriented Development Overlay District ordinance responds to and implements policies of the General Plan in regards to these topics through this funding source.

PROCEDURE FOR TONIGHT’S HEARING

At tonight’s hearing, the Planning Commission is charged with the following task:

1. Pursuant to Fremont Municipal Code Section 8-23105, consider the proposed Zoning Text Amendment (ZTA) and determine general conformance with the General Plan and that the public necessity, convenience and general welfare require adoption of the ZTA.

PROJECT DESCRIPTION

The project involves 1) A new ordinance and zoning district entitled the Transit Oriented Development Overlay District, and 2) Related zoning text amendments to Article 2 (Definitions), and Article 20 (Parking, Loading Areas, and Regulations Pertaining to Vehicle Storage Areas in Various Zoning Districts), of the Zoning Ordinance.

Transit Oriented Development Overlay District

The draft TOD Ordinance is organized like other similar overlay zoning districts in the Zoning Ordinance. It is intended to “overlay” and supplement underlying zoning districts by providing additional regulations and benefits specific to the geographic area to which the overlay applies. In this case, existing and future transit station areas within ½ mile of the station platform. At this time, staff is proposing to apply the Ordinance to the two existing transit stations (Centerville and City Center) and to the two future BART stations (Irvington and Warm Springs /South Fremont). Warm Springs/South Fremont is under construction and planned to be operational in 2015. Irvington BART does not have a funded station at this time and is relying upon future funding from the proposed Measure B1 (Alameda County Transportation Sales Tax Increase) that will be on the November 6, 2012 ballot. However, it is unknown at this point whether Measure B1 will or will not pass at the November 6, 2012 election. If Measure B1 does not pass, staff will reevaluate proceeding with the inclusion of the Irvington Station in the TOD Overlay District at the City Council hearing on November 13, based on the likelihood of available funding and timing of station construction. Staff believes that it is important to have enabling land use regulations in place in areas planned for future transit stations to better anticipate and plan for appropriate development intensities.

The City has two ongoing land use station area planning efforts in the City Center and Warm Springs/South Fremont Bart station areas and just completed the Downtown Community Plan. The TOD Overlay District is complementary to each of those planning efforts and will work as interim requirements in the areas where plans are in process until they are approved by the City Council with more refined requirements. The TOD Overlay will not apply to the Downtown Community Plan area itself as it already includes refined standards and requirements.

Applicability

The TOD Overlay District would apply to parcels within the Commercial, Industrial and Urban Residential land use designations of the General Plan within the roughly ½ mile radius of a transit station platform. Staff has recommended rezoning specific properties (Exhibit “C”) based upon their location, type of use, and access to the station. This determination of appropriateness with the property rezoning removes future ambiguity of boundary decisions when the ½ mile radius may partially cross a property. Staff has also included exemption language within the ordinance for smaller parcels that may find it difficult to develop within the regulations of the TOD Overlay District. This exempts properties of 12,500 square feet or less from meeting the strict requirements of the ordinance through a finding determination.

Staff is not proposing to apply the TOD Overlay to existing Planned Districts due to these projects already having an approved development plan. Existing Planned Districts would not be subject to the provisions of the TOD Overlay Ordinance unless specifically requested through the Planned District Major Amendment process.

Uses

The TOD Overlay District relies on the underlying zoning districts established permitted, zoning administrator and conditional uses for its range of allowable uses, with some noted exceptions. Specifically, certain auto oriented, low intensity or low employee generating uses are not permitted within the TOD Overlay District. Examples include warehousing, distribution, mini-storage, rail yards and freight terminals, auto-related uses and storage, and drive-through facilities. However, the ordinance does allow for certain short-term, temporary uses that do not require structural improvements to the site.

Development Standards

The greatest benefit of the TOD Overlay District is the increased development potential in terms of units/acre and/or floor area ratio (FAR). These development standards were initially conceived during the General Plan update process and are now presented in the draft ordinance for implementation. The development standards for FAR and density are relative to each General Plan land use designation to be compatible with the City’s ability to support high intensity development and available transit services. The site development standards show the City Center as the location for the highest intensity use followed by the Town Centers and General Commercial areas. While relatively few Urban Residential parcels exist in the proposed TOD Overlay Districts, the proposed ordinance would require development on those parcels at 30 or 50 units per acre as shown below. The other new element required within the TOD Overlay Zoning District is a minimum FAR. The minimum FAR standard ensures that appropriate scaled development that is supportive of transit use will be built within these targeted TOD areas.

The standards vary by underlying land use are as follows:

Site Development Standards for TOD Overlay

Standards	General Plan Land Use Designation				
	City Center	Town Center	General Commercial	Urban Residential	Industrial (All)
Floor Area Ratio (FAR)	3.0 (maximum) 1.25 (minimum)	2.5 (maximum) 0.50 (minimum)	1.25 (maximum) (no minimum)	n/a	0.50 (minimum)
Net Density (units per net acre)	50 (minimum)	30 (minimum)	30 (minimum)	50 (minimum)	n/a

Mixed Use

Mixed use projects considered under the TOD Overlay will continue to be subject to the Mixed Use Ordinance, as applicable. The overall development intensity (FAR) in the TOD Overlay provides a greater benefit than that of the existing Mixed Use Ordinance so the TOD standards would govern. Staff is also proposing to eliminate the requirement for a Planned District if the project site is greater than two acres or located in the City Center. In the case of the TOD Overlay, approval authority for mixed use projects would be based on use, and/or subject to design review and approval by the Planning Commission.

Parking

The draft ordinance includes parking requirements that are intended to maximize development near transit and help achieve the General Plan vision of becoming strategically urban. The requirements are derived from existing City of Fremont parking standards as well as more recent standards prepared for the Downtown District ordinance. The TOD parking requirements represent an approximate 25% reduction from existing minimum parking standards. A project may request an additional parking reduction through the City's normal waiver request process. Similar to the Downtown District, the standards also include minimum and maximum requirements to provide a parking range. Projects may be able to achieve the maximum parking standard based on its size and the type of project, the specific location and market conditions.

The proposed TOD Overlay parking requirements are as follows:

TOD Overlay District Automobile Parking Standards ("KSF" shall mean 1,000 square feet of gross floor area)		
<i>Type of Use</i>	<i>Minimum Parking</i>	<i>Maximum Parking</i>
Multi-Family Residential* (per unit)	0.5 covered, 0.5 uncovered	1 covered, 0.5 uncovered
Mixed-Use Multi-Family Residential	1 covered per unit	1 covered per unit
Commercial Uses (retail/service/general office)	3 per KSF	4 per KSF
Mixed Use Non-Residential Uses (retail/service/general office)	2 per KSF	3 per KSF
Medical Uses (including medical office)	3 per KSF	4 per KSF
Assembly Uses	1 per 5 seats	1 per 3 seats
Restaurant Uses	1 per 5 seats, plus an additional 10%	1 per 3.5 seats, plus an additional 10%

Other Requirements

The draft TOD Overlay District ordinance also includes other requirements to ensure compatible design with its surroundings and guide new projects towards the design intent of the City for urbanized TOD areas. These include requirements for design review of site plans and architectural plans; consistency with the Place-Type Manual in the Community Character Element of the General Plan; a prohibition on “strip commercial development” generally defined as linear commercial buildings with front parking lots between the building and the street; and the inclusion of Transportation Demand Management measures into the project to further enhance the transit and pedestrians amenities while reducing vehicle miles traveled.

Related Zoning Text Amendments

In order to achieve consistency throughout the Zoning Ordinance, staff is proposing to also amend Article 2 (Definitions) and Article 20 (Parking, Loading Areas, and Regulations Pertaining to Vehicle Storage Areas in Various Zoning Districts) of the Zoning Ordinance, as follows.

Article 2, Definitions

The proposed new definitions include:

- Bicycle Parking, Long Term
- Bicycle Parking, Short Term
- Net Density
- Net Acre
- Strip Commercial Development

Particularly noteworthy are the definitions for Net Density and Net Acre that provides a new approach to calculating project development density. Previously, staff would use the gross acreage of the site to determine appropriate development density. Often this would include street right-of-way that would be dedicated back to the City or unbuildable areas of the site. This new approach eliminates areas of project sites that will be dedicated for public improvement, or are otherwise unbuildable giving a more reasonable representation of development size and land compatibility.

Article 20, Parking

The proposed amendments include:

- A minor revision to existing Section 8-22003(a)(2)(d) to reference the TOD District. This section provides for the process and specifies findings that enable the Planning Commission to reduce parking requirements.
- Deleting the BART in-lieu parking section in Article 20. Staff is proposing to delete this section due the reduced parking requirements of the TOD Overlay District; and because a process for requesting waivers, through the Planning Commission, to reduce parking for projects in close proximity to transit already exists in the Zoning Ordinance.
- Referencing the Bicycle Master Plan with respect to the design of bicycle parking spaces.
- New requirements for bicycle parking applied to all projects that require automobile parking. This also includes appropriate bicycle parking rates based on the Bicycle Master Plan and industry practice for residential uses; and, the CAL Green building code standards for non-residential uses. Staff is proposing the following bicycle parking rates be required for all projects that require automobile parking:

Bicycle parking is required for all projects that require automobile parking as follows:

<u>Bicycle Parking Standards</u>	
<u>Type of Use</u>	<u>Parking Standard</u>
<u>Multi-Family Residential w/ private garage</u>	<u>Long Term = None Required</u> <u>Short Term = 4, plus 1 per 10 units</u>
<u>Multi-Family Residential w/o private garage</u>	<u>Long Term = 2, plus 0.5 per unit</u> <u>Short Term = 4, plus 1 per 10 units</u>
<u>Non-Residential</u>	<u>Long Term = 1, plus 5% of required automobile parking for tenants or occupants</u> <u>Short Term = 4, plus 5% of required automobile parking for visitors</u>

PROJECT ANALYSIS

General Plan Conformance

The proposed Transit Oriented Development Overlay District ordinance is an implementation measure of the recently adopted General Plan, and therefore consistent with many General Policies and implementation actions. The ordinance is also consistent with the overall sustainability theme of General Plan by facilitating higher intensity development near areas served by transit. The following General Plan goals, policies and implementation actions are applicable to the proposed project:

LAND USE GOAL 2-1: CITY FORM AND STRUCTURE - A city transformed from an auto-oriented suburb into a distinctive community known for its walkable neighborhoods, dynamic city center, transit-oriented development at focused locations, attractive shopping and entertainment areas, thriving work places, and harmonious blending of the natural and built environments.

Land Use Policy 2-1.7: Becoming a More Transit Oriented City - Plan for Fremont's transition to a community that includes a mix of established lower-density neighborhoods and new higher-density mixed-use neighborhoods with access to high-quality transit. Transit-oriented development (TOD)—or the placement of higher density uses around transit facilities—should be recognized as the key strategy for accommodating Fremont's growth in the next 20-25 years.

- **Implementation 2-1.7.A: TOD Overlay** - Focus the application of TOD development principles on the Fremont, Irvington, and Warm Springs BART Stations, the Centerville train station, and City Center, but consider other opportunities, particularly along the Fremont Boulevard corridor. Apply the TOD Overlay within a one-half mile radius from each transit station.
- **Implementation 2-1.7.B: Reducing the Predominance of Parking** - Encourage future development in the vicinity of transit stations to utilize vertical development formats (i.e., buildings of four or more stories) rather than the suburban model of one- or two-story buildings surrounded by surface parking. This should be accomplished through such tools as parking “maximums” (i.e., limits on the number of spaces that may be provided to serve a new development) in the zoning ordinance, the development of parking structures, unbundling parking for mixed use and “shared” parking areas serving multiple parcels.

- **Implementation 2-1.7.C: Prohibition of New Low Employee Intensity Uses in TOD Areas -** Ensure that zoning for transit oriented development areas discourages or prohibits new low employee intensity uses such as mini-storage warehouses, gas stations, or buildings surrounded by large surface parking lots. Land uses with low-value structural improvements (such as parking lots) or auto sales may be considered as acceptable interim uses, provided the sites can be easily redeveloped as market conditions change.

New projects within approximately one-half mile of the Centerville Train Station, the Fremont BART Station, the planned BART Stations, and anywhere in the entire City Center should be designed so as to not preclude the long-term vision of these areas as higher intensity transit oriented development areas. As noted in the land use definitions, minimum densities and intensities in these areas will apply in these areas to ensure that land is efficiently used. In addition, FARs that exceed the range specified by the General Plan may be permitted by the City Council for projects that provide extraordinary benefits to the city, have unique circumstances that would reduce impacts in comparison to other projects, or include the transfer of development rights. Transportation demand management measures may be used to offset the traffic impacts of more intense development.

Land Use Policy 2-1.11: Infill Emphasis - Focus new development on under-developed or “skipped over” sites that are already served by infrastructure and public streets. Strongly discourage, and where appropriate prohibit, the conversion of open space or underdeveloped land on the fringes of Fremont to urban uses. All of the growth projected for Fremont over the next 20-25 years is anticipated take place within the existing urbanized area. By growing more compactly, the City can preserve its hills and Baylands as open space.

- **Implementation 2-1.11.A: Zoning and CIP to Support Infill** - Ensure that zoning and capital improvement decisions are made in a way that supports reinvestment in the existing urbanized area and discourages development of vacant or agricultural land on the edges of the city.

Land Use Policy 2-2.1: Opportunity Areas for Growth and Change - Guide new growth and development to specific areas as prescribed by Diagram 2-2 in the General Plan, and as further directed by more detailed planning studies. As prescribed by the text below, growth areas may include “primary” areas where land use changes are anticipated and encouraged and “secondary” growth areas where land use changes may be longer-term.

The primary growth areas include City Center, the areas around the proposed Irvington and Warm Springs/South Fremont BART station areas, the area around the Centerville ACE station, and within 1,000 feet of the Fremont Boulevard corridor and other Urban Corridors identified in the Community Character Element. The areas surrounding transit stations have been formally recognized as “Priority Development Areas” (PDAs) by ABAG and may be eligible for incentives such as transportation funds and other programs that facilitate growth. The secondary growth areas include other commercially and industrially zoned lands in the city with the potential to create job and housing opportunities while contributing to the city’s evolution into a more sustainable and pedestrian-oriented city. This includes, but is not limited to, the Mowry East shopping district (at Mowry and I-880), the Shinn Terminus (at the end of Shinn Street), the Fremont Boulevard/Decoto gateway, the Warm Springs commercial area at the Mission and Warm Springs Boulevard intersection, and the remainder of Pacific Commons.

Land Use Policy 2-2.2: Integrating Land Use and Transportation Choices - Ensure that land use decisions consider the characteristics of the transportation network, including road capacity, the quality of the streetscape, and the availability of public transportation and other modes of travel.

- **Implementation 2-2.7.A: FAR and Height Standards** – Revise the FAR and height standards in the Fremont Zoning Ordinance to reflect the intent and implement the goals and policies of the General Plan, including provisions for increased density around transit stations and along major transit corridors.

MOBILITY GOAL 3-2: REDUCING VEHICLE MILES TRAVELED – Improve mobility in Fremont while reducing the growth of vehicle miles traveled.

Mobility Policy 3-2.1: Coordinating Land Use and Transportation - Support land use choices and transportation investments which reduce the necessity of driving and create a community that is more walkable and serviceable by public transportation. Land use decisions should recognize the opportunities and constraints presented by the city's transportation system, including road capacity, transit availability, and pedestrian and bicycle mobility.

Implementing Policy 3-2.1 will require increasing densities around transit stations and along transit corridors, encouraging mixed use development, strategically balancing jobs and housing, and improving infrastructure for pedestrians, bicycles, and transit vehicles in the city. This will reduce the necessity of driving, as well as the cumulative distances residents will need to travel to reach work, shopping, and local services. Many of the subsequent policies in the Mobility Element support this guiding policy. Their associated implementing actions provide direction on the steps the City will take to reduce VMT while improving mobility and transportation choice.

Economic Development Policy 6-2.7: Town Centers - Fremont's town centers provide a unique range of services and retail small businesses. Continue to leverage the unique environment and heritage of each of these centers to benefit the local economy by creating specialty retail, unique shopping experiences, and interesting spaces for small local businesses and services.

- **Implementation 6-2.7.D: Centerville** - Identify policies for Centerville to take advantage of its historical business area, promote redevelopment of the Center Theater, and increase transit ridership.
- **Implementation 6-2.7.E: Irvington** - Continue to support ongoing activities in Irvington including development of the new BART station and increased pedestrian-oriented projects.

Analysis

The proposed TOD Overlay District is consistent with the General Plan for the above reasons stated in the various policies and implementation actions. Preparation and adoption of the TOD Overlay District is a specific implementation action of the General Plan.

Zoning Regulations

The TOD Overlay District will be introduced as a new Article of the Zoning Ordinance and is structured similarly to other overlay districts. By their nature, overlay zoning districts are intended to work in

conjunction with underlying zoning districts. Permitted uses will be those as prescribed by the underlying zoning district unless explicitly not permitted in the TOD District. Development intensity (FAR) and density (units per net acre) would be permitted as prescribed by the TOD District, but all other development standards, such as setbacks and height, would be as specified in the underlying district. Procedurally, it will not change the review process for most development projects, which will still be based on the underlying district and project type. Mixed use projects will be subject to the design review process based on the underlying use provisions. Any new structures would automatically require design review approval by the Planning Commission.

FINDINGS FOR APPROVAL

In order to approve the proposed ordinance, it must be found consistent with the General Plan and that the public necessity, convenience and general welfare requires its adoption. Based on the above analysis, staff finds the proposed Zoning Text Amendment is in conformance with General Plan and recommends the following findings:

- The ordinance adding a TOD Overlay District and other related zoning text amendments to the Fremont Municipal Code is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use and Mobility Elements as enumerated within the staff report. Furthermore, the TOD Overlay District is a specific implementation action of the General Plan.
- The public necessity, convenience and general welfare requires the adoption of the ordinance because the City of Fremont recognizes that the efficient use of land will help promote economic potential, pedestrian activity and transit access, improve urban form and design, and reduce vehicle miles traveled while achieving the General Plan vision of growing strategically urban.

ENVIRONMENTAL REVIEW

The proposed project would implement the recently adopted General Plan for which an Environmental Impact Report (EIR) SCH#2010082060 was previously certified.

PUBLIC NOTICE AND COMMENT

Public hearing notification is applicable. A 1/8 page display advertisement was published by *The Argus* on September 25, 2012.

Staff also held a public meeting in August to introduce the ordinance and seek feedback from the public and business community. Staff sent notice to the Chamber of Commerce and business associations in Centerville and Irvington, among others. The meeting was lightly attended but did provide some feedback in consideration of the Ordinance.

ENCLOSURES

Exhibits:

- Exhibit "A" [Draft Transit Oriented Development Overlay District](#)
- Exhibit "B" [Proposed related Zoning Text Amendments](#)
- Exhibit "C" [TOD Overlay District Station Areas](#)

RECOMMENDATION

1. Hold public hearing.
2. Find the Zoning Text Amendment to add a TOD Overlay District, and other related amendments to the Fremont Municipal Code and Zoning Maps are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use, Mobility and Economic Development Elements as enumerated within the staff report.
3. Find that the public necessity, convenience and general welfare requires the adoption of TOD Overlay District, and other related amendments because the City of Fremont recognizes that development near transit results in an efficient use of land which will help promote economic potential, pedestrian activity, transit access, while also improving urban form and design, and reducing vehicle miles traveled, while achieving the General Plan vision of growing strategically urban.
4. Recommend the City Council adopt the Zoning Text Amendment to add a TOD Overlay District to the Fremont Municipal Code and Zoning Maps, as shown on Exhibit "A", "B", and "C".